

II. REMARKS

1. Claims 1-35 remain in the application.

2. Applicants appreciate the indication that claims 6-8, 10-12, 19-21, 23, 26-31, 34, and 35 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. However, Applicants believe that these claims are patentable as they stand for the reasons stated below.

3. Applicants respectfully submit that claims 1-5, 9, 13-18, 22, 24, 25, 32, and 33 are not anticipated by Haskell et al. (US 5,742,343, "Haskell") under 35 USC 102(b).

Haskell fails to disclose or suggest determining a target combination of the first data stream and the second data stream in the third data stream according to the control information, and to adjust the combination of the first data stream and the second data stream in the third data stream by affecting the first and second bit rates, as recited by claims 1, 24, and 33.

The present invention is distinguished from Haskell in that it directed to jointly controlling the first and second bit rates. That is, the encoders for the bit streams are controlled together and exchange information over an information exchange channel, as shown in Figure 5, signal 502, and described in the present specification on page 11, lines 22-31. Haskell fails to disclose this feature.

Haskell discloses three embodiments in Figures 1-3, none of which disclose the concept of such joint control. The control mechanism of Haskell is described in column 5, lines 34-47:

"The fullness signal from buffer c3210 appearing on bus c3225 passes to enhancement encoder c3180. In many scalable implementations, the coded picture quality of the base layer will be the overriding consideration in allocating bit-rate to the enhancement layer. In fact, the coding efficiency of the enhancement encoder usually depends on a high quality base layer picture. For these reasons, enhancement encoder c3180 utilizes both buffer fullness signals in controlling the data flow into buffer c3210. For example, it may utilize the sum of the two fullnesses. Also, for example, if at any time Buffer c3190 were deemed too full, then enhancement encoder c3180 could cease producing data altogether for the enhancement layer, thereby allocating the entire transmission bit-rate to the base layer."
(Emphasis added)

In all three embodiments shown in Haskell, specifically Figures 1, 2, and 3, and in more detail, Figures 18, 19, and 20, and further in light of Haskell's specification, it is clear that the buffer fullness (BF) of the core encoder affects both the core (CE) and enhancement encoders (EE), while the buffer fullness of the enhancement encoder (EE) affects only the function of the enhancement encoder (EE). In addition, Haskell lacks any mechanism for the controllers of the core encoder (CE) and the enhancement encoder (EE) to exchange information.

Therefore, Haskell cannot be interpreted as teaching or disclosing determining a target combination of the first data stream and the second data stream in the third data stream according to the control information. Furthermore, Haskell fails to disclose or suggest adjusting the combination of the first data stream and the second data stream in the third data

stream by affecting the first and second bit rates as presented in the present invention. Still further, for the same reasons, Applicants submit that Haskell fails to provide proper enablement for implementing the present invention. Haskell has no disclosure related to jointly controlling the first and second bit rates. The encoder controllers act independently in a stand alone fashion.

In addition, Haskell explicitly discloses that the needs of the core encoder override the needs of the enhancement encoder. In other words, in both the text and figures, Haskell clearly discloses that the core encoder needs have the first priority, the requirements of the enhancement encoder are secondary.

In contrast, the present independent claims disclose that the control means determines a target combination of the first data stream and second data stream in the third data stream according to the control information. There is nothing explicit or implicit in Haskell that even suggests such a determination. In fact, Haskell teaches away from the present invention because Haskell discloses prioritizing the needs of the core encoder first, while the present invention discloses determining and controlling a target combination. In Haskell, such joint control is not possible.

At least for these reasons, Applicant's respectfully submit that independent claims 1, 24, and 33, and dependent claims 2-5, 9, 13-18, 22, 25, and 32 are not anticipated by Haskell.


For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable

reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

A check in the amount of \$120.00 is enclosed for a one (1) month extension of time.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,


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11 July 2005
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